FOR MYSORE STATE

Public Works (1953) Department.

MSERIES.

G.O. NO. 257

257

Dated 21st January 1953.

[Despatch Abstract.]

Electricity - Suits - Hospet - Electrical undertaking - Aucting Engine sets in 1946 - Appeal to High Court by Durga Foundry - Madras - Against decree of District Court Bellary - Defence - Sanctioned -

Government Electricity Department.

From

The Chief Operation Engineer(North),
157, Mount Road,
Madras 2.

109721

To

The Secretary to Government,
Public Works Department,
Fort St.George,
Madras 9.

Letter No.2330-C/52-3 dated 18.12.52.

Sir,

Sub: Hospet Municipal Electrical Undertaking
Appeal filed by M/s.Durga Foundary, Madras in the High Court of Madras against the decree obtained by the Hospet municipality in District Court of Bellary.

I enclose herewith a copy of letter dated 20.10.52 and 6.12.52 from the Chief Controller of Accounts on the above subject which is self-explanatory. The Government Pleader, Madras was contacted personally and he had agreed to take up the case, taking as his Junior Sri C.Kondiah the Advocate who defended the case for the Hospet Municipality. A

Government have now to defend the appeal as the Hospet Municipality has been taken over by Government. I request that Government may be pleased to sanction the defence of the appeal and also the appointment of Sri C.Kondiah as the Junior to Government Pleader, Madras, since the amount involved is over Rs.10,000/- (Rs.14,928/3/0 as per judgement of the District Court, Bellary.) B

Municipal Electrical Undertaking

for CHIEF OPERATION ENGINEER(NORTH)

Encl. 2 letters.

nmk/22.12.52.

3/

Copy of letter No.4537/X/S1/52-1 dated 20.10.52 from the Chief Controller of Accounts, 157, Mount Road, Madras to the Chief Operation Engineer(North), 157, Mount Road, Madras2.

Sub: Hospet Municipal Electrical Undertaking - Appeal filed by M/s.Durga Foundary, Madras in the High Court of Madras against the decree obtained by the Hospet Municipality in the District Court of Bellary - Regulation fees etc.

The Hospet Municipality conducted on auction in December 1946 of the Engine sets of the Hospet Municipal Electrical undertaking. Sri G.V.Raman of M/s.Durga Foundry Madras who paid the earnest money deposit of Rs.500/- knocked down the bid for Rs.12,950/- But he failed to pay the balance of the bid amount after deducting the deposit amount. Thereupon the Hospet Municipality filed a suit in the District Court, Bellary against M/s.Durga Foundry and its partners for recovery of the above amount through Sri D.Venugopalachari, B.A., B.L., Advocate, Bellary. The suit was decreed with costs and interest at 6%. As the party did not pay the decreed amount, execution proceedings were taken by the Hospet Municipality for the attachment of the properties of the Durga Foundary madras through the court of small causes at Madras and Sri C.Kondiah, B.A.B.L. of Theagaraya nagar was engaged as Lawyer by the Municipality.

2. In the meantime, M/s.Durga Foundary filed a petition in the High Court of Madras praying for stay of the execution of the decree. Sri C.Kodnaih, Pleader, appeared for the Municipality. After hearing the arguments, the High Court Issued orders staying the execution of the decree and directed M/s.Durga Foundary to deposit about Rs.10,000/- towards part of bid amount and cost of the suit. M/s.Durga Foundry have also filed an appeal in the High Court and the appeal is under printing and is not yet ready for hearing.

3. The Hospet Municipal Electrical undertaking has now been vested with the Government with reference to section 7(3) of the Acquisition Act, the amount of Rs.10,000/- deposited in the District Court, Bellary is to be obtained and the appeal is to be defended by us. I am issuing necessary instructions to the field to contact the Government Pleader, Bellary for getting the amount from the District Court, Bellary.

4. Regarding the appeal, I have to state that as the proceedings have been sufficiently advanced, it is necessary to entrust the defence to the same Advocate, Sri C.Kondiah, B.A.B.L, instead of transferring the same to the Government Pleader, Madras now. This may be approved. If it is, however considered necessary that Government Pleader, Madras shouldbe engaged for the defence of the appeal, orders may be issued to that effect.

5. Sri C.Kondiah, Pleader, T.Nagar has requested payment of Rs.800/- towards regulation fees to be certified by the Court. Sanction may also be accorded for the payment of this amount, if it is decided that Sri C.Kondiah can appear for the appeal.

6. The matter may please be treated as very urgent.

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/ True copy /

nmk/22.12.52.

Superintendent.

Copy of letter No.4537/X/S1/52-6 dated 6.12.52, from The Chief Controller of Accounts, 157, Mount Road, Madras to the Chief Operation Engineer(South), 157, Mount Road, Madras 2.

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Sub: Hospet Electrical undertaking - Suit between M/s.Durga Foundary and the Hospet Municipality - ASNo.402/50 of the High Court of Madras.

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With reference to your Memorandum No.2330-C/52-2 dated 10.11.52 on the subject noted above, I have to state that the Government Pleader has not replied to this office reference nor has it been possible to meet him since. When he was approached early last month, he stated that as the case had been decreed in favour of the Hospet Municipality in the District Court, it stood to reason that Government as successors to the Hospet Municipality Electrical Undertaking will have to put in necessary defence against the appeal filed by Messrs. Durga Foundary in the High Court. He also stated that this was a case where he was entitled to a Junior, the criterion being the amount involved in the suit. The amount of fees to be paid to the Junior will depend on the number of days he has to appear and it may not be possible to state this in advance. Action will, however, be taken to ascertain the rate at which his juniors are generally paid and the approximate number of days the Junior will have to appear in this case.

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/ True Copy/

nmk/22.12.52.

Superintendent.

22.12.52

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G.O. Ms. 257 dated 21-1-53. P.W.D. (Jy)

CNO 109721/52 Subs:- Electricity - Erstk - Hospet Electrical Undertaking - Auction of engine sets in 1946 - Appeal to High Court by M/s Durga Foundry, Madras, against decree of Dr. Court, Bellary - Defence - Sanctioned.

Refce:- From the COE (N) letter No. 2330-C-52-3 d 15/12/52

The Govt Sanction the defence of the appeal filed by the Durga Foundry, Madras, in the High Court of Judicature at Madras, against the decree of the Dr. Court, Bellary, in regard to the recovery from the Foundry of the bid amount for the engine sets of the Hospet Electrical undertaking auctioned by the Hospet Municipal Council in December 1946.

2. Sanction is also accorded to the appointment of Sri C. Kondiah Advocate, Madras, as Junior to the Govt Pleader, Madras, to appear on behalf of the Govt in connection with the above appeal till it is disposed of by the High Court.

3. The Junior will be entitled to one-third of the fee allowed to the Govt Pleader, Madras, or such higher fee as the court in its discretion may allow.

B 5-1-53 S7/1/53 B 6/1/53

To
The COE (N)
Govt Pleader, Madras
Sri C. Kondiah, Advocate
c/o Govt Pleader, Madras
A.G. This Fd.
The Registrar, High Court, Madras
The Home Dept
Spare 6 copies

Note Please see the letter from the COE(N) and its enclosures on pp 1-5 in the cf. For the reasons stated by the CCB. on pp 3-5 cf, the COE (N) considers that the appeal in qn. has to be defended by the Govt in the High court. The proposal of the COE at B on p 1 cf may be accepted. The draft order submitted above is for approval.

2. Home and Finance may see for acceptance before issue.

B 5-1-53. S7/1/53 B 6/1/53 Home Fin

For Precedents
1. See GO Ms. No 1271/PW, 31-3-51
2. GO Ms. No 3029/PW d 25-11-52

Home (Cts. III) Dept.

Please see the reference from the C.O.E. (N.), Madras and his encls. on the c.f. and the P.W. Dept's note above. This Dept may abo agree with the C.O.E.'s proposal at 'B' on p. 1 c.f. As regards fees the P.W.D. may be requested to add the following as para 3:

"The Junior will be entitled to one third of the fee allowed

Land Trans. 3605
PWD No 109721/52-A
6-1-53.
A

PWR

To The Gr. P. Madras or such higher fee as the court in its discretion may allow." That Supt. may also be requested to send copies of the draft order to the High court and this Dept.

Subject to the above remarks the draft order overleaf may be accepted and the case passed on to Fin

7.1.1953

7/1/53

7.1.53

Fin

Home Fin

360505 VII/54

7-1-53

Fin(PWR)

The draft order overleaf may be accepted, subject to the addition indicated by Home at A on pp1-2 above.

13/1/53 PW

14.1.53

9/1/53 Hm 12/1/53

ADDITIONAL DEPUTY SECRETARY TO GOVERN
1999 PWR
8 JAN 1953
FINANCE DEPARTMENT

Fin Home Pub 1999 PWR/53

14.1.53

PWD(Gr)

Please see the notes of Home and Fin on pp 1-2 above. Para 3 is added in pencil to the Draft order as suggested by Home at A on pp 1-2 above. It may now issue

ASSISTANT SECRETARY TO GOVERNMENT
PUBLIC
8 JAN 1953

17.1.53 17.1.53 19/1/53 20.1.53

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(Title 0).

Secretary = Duties = Deputy Clerk of [illegible]
[illegible] = Duties = Appeal to High Court by
Appeal forms = Duties = Deputy Clerk of District Court.
Bailiff = Duties = [illegible]

[illegible] Regulations.

O.C.(C.D.) No. 27.

[illegible] 1st May, 1941.

From the Chief Operations Engineer (North) Base
No.CEW-C-3(3) Chief Engr-E-1941.

The [illegible] is drawn to the [illegible] of the Chief
Engineer (North) Base, [illegible] Civil Defence
Regulations (No.1) 1939, [illegible] Civil Defence (No.2)
Regulations, 1939, in regard to the recovery from the Country of
Civil Defence, in respect of the expense incurred [illegible]
(a) the use of [illegible] for the purpose of [illegible]
[illegible] by the Chief Controller of Civil Defence
Staff.

2. Regulation 4 also provides for the [illegible] of
Civil Defence, [illegible] Minister of Finance to the Government Re
[illegible] to [illegible] 3 in connection with the [illegible]
[illegible] disposal of by the High Court.

3. The Parties will be advised to make [illegible] of the fee
also of to the Government [illegible] or such higher fee as
[illegible] by the Minister.

(By order of the Governor)

C.F.S. Mathews,
Secretary to Government.

To the Chief Operations Engineer,(North)
To the Government Auditor, [illegible].
To the Chief Controller, Civil Defence, Wellington.
To the Secretary of Civil Defence, Wellington.
To the Secretary of Finance, Wellington.
To the Base Depot, [illegible].
To the Files.

[illegible] Civil Defence.

C.D.1.

Superintendent.